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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,351	01/17/2002	Markus Henneken	ZAHFRI P400US	2560

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EXAMINER

JACKSON, ANDRE K

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,351

Applicant(s)

HENNEKEN, MARKUS

Examiner

Andre' K. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81. No new matter may be introduced in the required drawing.

Specification

2. The disclosure is objected to because of the following informalities:

On page 2, paragraph 10 "fo" should be --of--.

On page 3, paragraph 15 the sentence is written awkwardly.

Appropriate correction is required.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: In claims 15 and 22 "an input shaft of the transmission with a driving source having preset rotational speeds and load ratios" and connecting an output shaft of the transmission with a stationary torque-measuring hub to block the output shaft".

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenzie et al. in view of Gierer.

Regarding claim 15, McKenzie et al. disclose a "Method of calibrating clutches in a transmission" which simulates a vehicle operation by connecting an input shaft (22) of the transmission that is connected with a driving source (18), which produces preset rotational speeds and testing a plurality of shifting elements in the transmission by providing an input rotational speed to the transmission to supply pressure-setting elements in the transmission with hydraulic pressure sufficient to actuate the shifting elements out of an opened condition to the extent necessary to determine, indicate and store a desired shifting element characteristic (Column 1 and Column 4, lines 1-23). What is not disclosed by McKenzie et al. is the output shaft of the transmission being connected with a stationary torque-transmitting hub. However, Gierer discloses a "Method of determining the parameters of an automatic transmission" which has an output shaft of the transmission being connected with a stationary torque-transmitting hub (Figure 1). Therefore, it would have been

obvious to one of ordinary skill in the art at the time of invention to modify McKenzie et al. to include an output shaft of the transmission being connected with a stationary torque-transmitting hub as taught by Gierer since the artisan would want to know the torque at the output.

Regarding claim 16, McKenzie et al. disclose where the shifting element slip tends towards zero (Column 7, lines 1-8).

Regarding claim 17, McKenzie et al. disclose the step of using the hysteresis of the threshold between opening and closing of the shifting element as characteristic quantity (Column 5, lines 46-53).

Regarding claim 18, McKenzie et al. disclose the step of using the slip rotational speed of the shifting element as the characteristic quantity (Column 4, lines 9-22).

Regarding claim 19, McKenzie et al. disclose the step of using the torque transmitted to the hub as the characteristic quantity (Column 2, lines 45-50).

Regarding claim 20, McKenzie et al. disclose the step of using the time needed to shift a shifting element with positive engagement as the characteristic quantity (Column 3, line 35).

Regarding claim 21, McKenzie et al. does not disclose the step of maintaining the shifting elements in a closed position after testing. However, the skilled artisan would be inclined to leave the

elements in a closed position to verify that the particular element has been tested.

Regarding claim 22, McKenzie et al. simulates a vehicle operation by connecting an input shaft (22) of the transmission that is connected with a driving source (18), which produces preset rotational speeds and testing a plurality of shifting elements in the transmission by providing an input rotational speed to the transmission to supply pressure-setting elements in the transmission with hydraulic pressure sufficient to actuate the shifting elements out of an opened condition to the extent necessary to determine, indicate and store a desired shifting element characteristic (Column 1 and Column 4, lines 1-23). What is not disclosed by McKenzie et al. is the output shaft of the transmission being connected with a stationary torque-transmitting hub. However, Gierer discloses an output shaft of the transmission being connected with a stationary torque-transmitting hub (Figure 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify McKenzie et al. to include an output shaft of the transmission being connected with a stationary torque-transmitting hub as taught by Gierer since the artisan would want to know the torque at the output. McKenzie et al. does not disclose the step of maintaining the shifting elements in a closed position after testing. However, the skilled artisan would

be inclined to leave the elements in a closed position to verify that the particular element has been tested.

Regarding claim 23, McKenzie et al. disclose where the shifting element slip tends towards zero (Column 7, lines 1-8).

Regarding claim 24, McKenzie et al. disclose the step of using the hysteresis of the threshold between opening and closing of the shifting element as characteristic quantity (Column 5, lines 46-53).

Regarding claim 25, McKenzie et al. disclose the step of using the slip rotational speed of the shifting element as the characteristic quantity (Column 4, lines 9-22).

Regarding claim 26, McKenzie et al. disclose the step of using the torque transmitted to the hub as the characteristic quantity (Column 2, lines 45-50).

Regarding claim 27, McKenzie et al. disclose the step of using the time needed to shift a shifting element with positive engagement as the characteristic quantity (Column 3, line 35).

Response to Arguments

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., calibration method) are not recited in the rejected claims. Although the claims are interpreted in light

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of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for


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reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' K. Jackson whose telephone number is (703) 305-1522. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

A.J. 
April 19, 2003


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800